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# *Citizens' Guide*

## Zoning By-laws



In a series

3

## Introduction

Land use planning affects almost every aspect of life in Ontario. It helps decide where in our communities homes and factories should be built; where parks and schools should be located; and where roads, sewers and other essential services should be provided.

Land use planning means managing our land and resources. It helps each community to set goals about how it will grow and develop and to work out ways of reaching those goals while keeping important social, economic and environmental concerns in mind. It balances the interests of individual property owners with the wider interests and objectives of the whole community.

Good planning leads to orderly growth and the efficient provision of services. It touches all of us and helps us to have the kind of community we want.

But often we don't see how it affects our lives and property each day. And it often seems confusing.

A series of Citizens' Guides has been prepared to help you understand how the land use planning process works in Ontario. They are intended to give general information only and are not an interpretation of the Planning Act or any other act. You should refer to the legislation for specific requirements and procedures. The titles of the guides are:

1. The Planning Act
2. Official Plans
3. Zoning By-laws
4. Subdivisions
5. Land Severances
6. Ontario Municipal Board
7. Northern Ontario
8. Building Permits
9. One-Window Provincial Planning Service/  
Municipal Plan Review
10. Making Mediation Work For You

## What is a zoning by-law?

A **zoning by-law** controls the use of land in your community. It states exactly:

- how land may be used
- where buildings and other structures can be located
- the types of buildings that are permitted and how they may be used
- the lot sizes and dimensions, parking requirements, building heights and setbacks from the street

An **official plan** sets out your municipality's general policies for future land use. Zoning by-laws put the plan into effect and provide for its day-to-day administration. They contain specific requirements that are legally enforceable. Construction or new development that doesn't comply with a zoning by-law is not allowed, and the municipality will refuse to issue a building permit.

Many municipalities have a **comprehensive zoning by-law** that divides the municipality into different land use zones, with detailed maps. The by-law specifies the permitted uses (e.g. commercial or residential) and the required standards (e.g. building size and location) in each zone.

Some rural municipalities may have a **free-standing zoning by-law** that covers only certain property that an owner proposes to develop.



## Why do you need a zoning by-law?

A zoning by-law:

- implements the objectives and policies of a municipality's official plan. (See Official Plans, No. 2 in the series.)
- provides a legal way of managing land use and future development
- protects you from conflicting and possibly dangerous land uses in your community

## What is a zoning by-law amendment?

If you want to use or develop your property in a way that is not allowed by the zoning by-law, you may have to apply for a zoning change, also known as a **zoning by-law amendment** or a **rezoning**. But council can consider a change only if the new use is allowed by the official plan.

Before you apply for rezoning, you should talk to the municipal staff for advice and information. You are required to complete an application form which contains information prescribed by the minister and any other additional information that the municipality may require. Most municipalities require that you pay an application fee.

The process for dealing with zoning by-law amendments is the same as for a zoning by-law. If local council refuses your zoning application, or if it does not make a decision within 90 days of the receipt of your application containing the prescribed information, you may appeal to the Ontario Municipal Board (OMB) directly by writing to the secretary of the OMB, 655 Bay Street, 15th floor, Toronto, ON M5G 1E5.

The OMB is an independent administrative tribunal responsible for hearing appeals and deciding on a variety of contentious municipal matters. (See the Ontario Municipal Board, No. 6 in the series.)

## How is a zoning by-law passed?

When council decides to pass a zoning by-law, it must first give as much information as possible to the public. There must also be at least one public meeting before a by-law is passed and everyone who attends the meeting must have a chance to speak. Notice of this meeting is given 20 days in advance, usually through local newspapers or by mail.

The Planning Act encourages early upfront involvement and the use of mediation techniques to resolve any conflicts. Make sure you make your views known early in the planning process. If you don't, this may mean that the OMB could dismiss any appeal you may make later on, without holding a hearing.

Your local council may also consult with interested agencies before it makes a decision. After hearing everyone's concerns, council may decide to pass, change or reject the proposed by-law. If it decides to make some changes, it may also decide to hold another public meeting.

Once council has passed the by-law, it must give notice of the passing of the by-law within 15 days after the by-law is passed. Any person or public body may, not later than 20 days after the notice of the passing of the by-law is given, **appeal to the OMB by filing a notice of appeal with the municipal clerk**. The appeal should set out the objections to the by-law and the reasons in support of the objections accompanied by the fee required by the OMB.

## How are zoning by-laws evaluated?

When it considers a zoning by-law, the council evaluates it against criteria such as:

- conformity with the official plan and compatibility with adjacent uses of land
- suitability of the land for the proposed purpose, including the size and shape of the lot(s) being created

- adequacy of vehicular access, water supply, sewage disposal
- the need to ensure protection from potential flooding

When council considers a zoning by-law, it shall have regard to the Provincial Policy Statement issued under the Planning Act. The Provincial Policy Statement contains clear, overall policy directions on matters of provincial interest related to land use planning and development. The “shall have regard to” rule means that a council is obliged to consider the application of a specific policy statement when carrying out its planning responsibility. It is expected that the council will implement the Provincial Policy Statement in the context of other planning objectives and local circumstances. (See The Planning Act, No. 1 in the series, and the Provincial Policy Statement. Both may be obtained through the government offices listed at the end of this guide.)

### How can you get involved?

If you have concerns about a proposed zoning by-law or amendment that may affect you, you should:

- find out as much as possible about the proposed by-law and how it affects your property
- go to the public meeting and give your opinions
- discuss the proposal with municipal staff and council members
- write to your council member or municipal clerk

If council knows about your concerns early in the process, it can try to take them into account before passing the by-law.

### What rights of appeal do you have?

Appeals to the Ontario Municipal Board (OMB) can be made in two different ways:

1. Any person or public body may appeal the council’s passage of by-law to the OMB within 20 days from the date the notice of the passage of the by-law is given. The notice of appeal should be filed with the municipal clerk.
2. Any person or public body requesting a rezoning may appeal to the OMB if the council refuses or fails to act on such a request within 90 days of the receipt of the prescribed information. The notice of appeal should be filed with the secretary of the OMB, 655 Bay Street, 15th floor, Toronto, ON M5G 1E5.

Your appeal must be accompanied by written reasons and the fee required by the OMB.

### What are the Ontario Municipal Board’s powers relating to appeals?

In appeal cases, the OMB holds a hearing at which you, and any other affected parties, will have an opportunity to present and discuss your views. The OMB can allow or dismiss your appeal, or repeal or amend the by-law.

The OMB also has the power to dismiss an appeal without holding a hearing. (See the Ontario Municipal Board, No. 6 in the series).

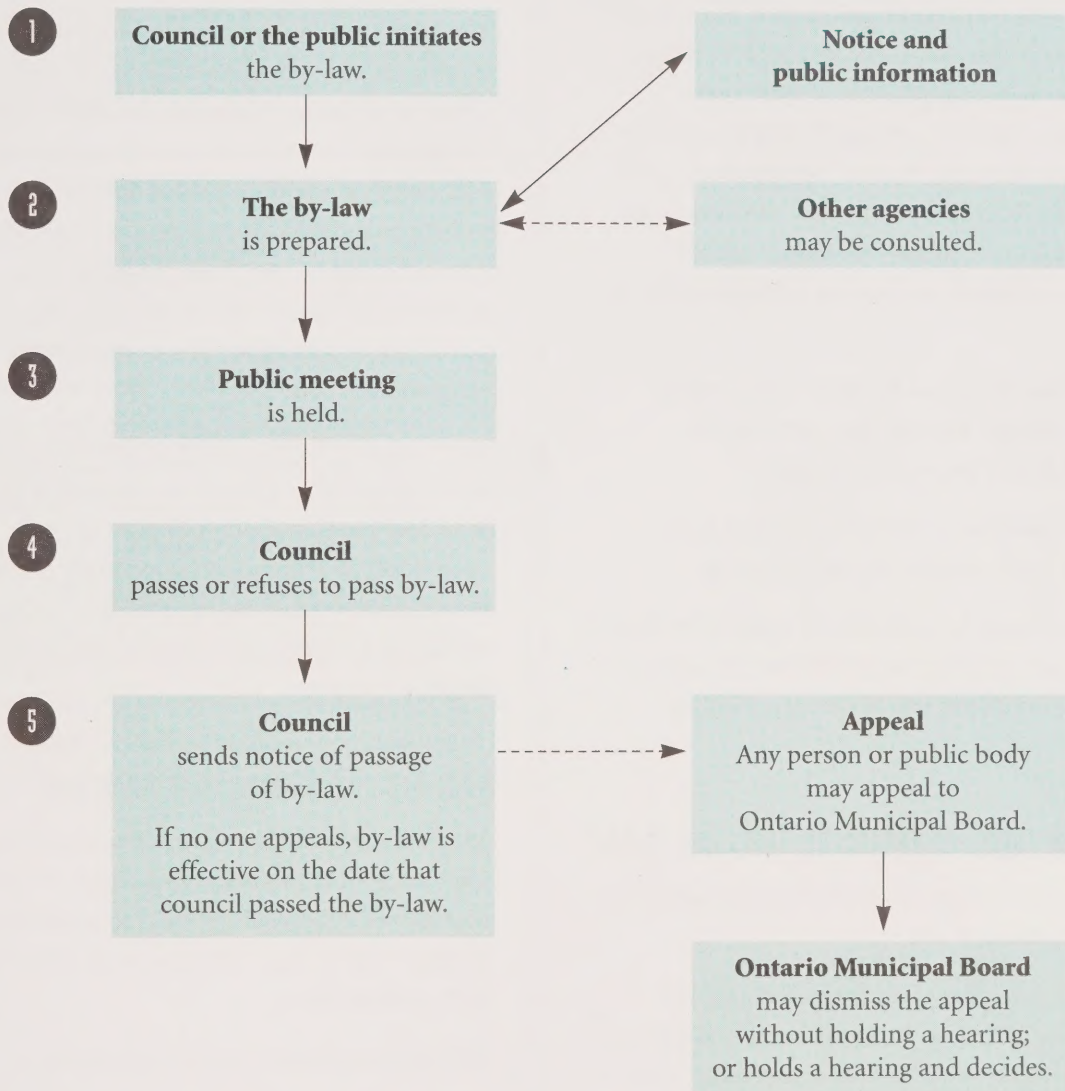
Appealing a local decision to the OMB is a serious matter. It can take considerable time, effort and in some cases, money, for everyone involved. A hearing may last only a few hours if the matter is quite simple, but for more complicated matters, a hearing can last for several days or even weeks.

The OMB will make a decision based on the facts presented at a hearing.



# Zoning By-laws

## The Zoning By-law Process



## What if you only need a minor change?

If your proposed change doesn't conform exactly to the zoning by-law, but follows its general intent, you can apply for a minor variance. For example, you might want to locate something on your property but the shape of your lot won't let you meet the minimum setback.

To obtain a minor variance, you will have to apply to your local committee of adjustment appointed by council to deal with minor problems in meeting by-law standards. The committee will hold a hearing and decide on your application. Anyone who disagrees with the decision has 20 days to appeal to the Ontario Municipal Board. The appeal should be filed with the secretary-treasurer of the committee. You should set out the reasons supporting the objection and should include the fee required by the Board.

The OMB has the power to dismiss your appeal without holding a hearing. (See the Ontario Municipal Board, No. 6 in the series.)

The OMB can allow or dismiss your appeal, or amend the application in any way it sees fit.

A minor variance does not change a zoning by-law. It simply excuses you from a specific requirement of the by-law and allows you to obtain a building permit.

## What other types of zoning by-laws are there?

There are several types of special by-laws that can be used to control land use:

Holding by-laws allow future uses for land or buildings but delay development until local services, such as roads, are in place. Your municipality cannot use these by-laws unless it has holding policies in its official plan.

Interim control by-laws put a temporary freeze on some land uses while the municipality is studying or reviewing its policies. The freeze can be imposed for only a year, with a maximum extension of another year. The Planning Act provides that an interim control by-law would remain in effect past the two-year period if the new zoning by-law which replaces the interim control by-law is appealed to the OMB. The new by-law does not become law until the OMB hears the appeal and decides.

Temporary use by-laws zone land or buildings for specific uses for a maximum period of three years at a time, with further extensions possible. In cases of authorizing the temporary use of a garden suite (i.e. a one-unit detached residential structure containing bathroom and kitchen facilities that is ancillary to an existing structure and that is designed to be portable), the temporary by-law may allow it for a period not exceeding ten years, with further extension possible.

Increased height and density by-laws allow buildings to exceed permitted standards, but only if the developer provides certain services to your community in return, such as parkland. Your municipality cannot use these by-laws unless its official plan includes policies allowing increases in height and density.

## What are site plan control by-laws?

Site plan control by-laws are not zoning by-laws. They are used to establish areas where site plan control will be applied over and above those set out in the zoning by-laws. These areas must be described in the official plan.

Site plan controls are used to ensure that:

- developments are built and maintained in the way that council approved
- new developments meet certain standards of quality and appearance



# Zoning By-laws

- there is safe and easy access for pedestrians and vehicles
- there is adequate landscaping, parking and drainage
- nearby properties are protected from incompatible development

As a condition of site plan approval, municipalities may require the owner to provide land for road widening and public transit rights-of-way. Before municipalities can exercise this power, the road widening and public transit rights-of-way must be shown or described in the official plan.

## What is a minister's zoning order?

The Planning Act gives the Minister of Municipal Affairs and Housing the authority to zone any property in the province.

Zoning orders are rarely used where municipalities have existing zoning by-laws, but can be used to protect a provincial interest. They are used mostly in areas of northern Ontario where there is no local municipality or local zoning by-law. Once a minister's zoning order is in place, the minister can either delegate the administration of the order to the local planning board or deem it to be the local by-law, in which case the planning board would have all the powers to pass by-laws to make any changes. (See Northern Ontario, No. 7 in the series.)

## What other approvals may be required?

In addition to the planning approvals and building permit which are needed for a building project, there are other permits and approvals required in particular circumstances. For example, a septic tank permit is required for a new septic system. In cottage areas, a permit may be required from the Ministry of Natural Resources before you do any construction in the water (for example, a dock or boathouse with solid foundation).

## How can you find out more?

For more information about land use planning in your community or for copies of the Citizens' Guides, contact your municipal clerk or planning department, or your nearest Ministry of Municipal Affairs and Housing office:

### Provincial Planning Services Branch

(416) 585-6014

Toll Free : 1-800-935-0696

Fax: (416) 585-4245 or 585-4006

### Planning Policy Branch

(416) 585-6235

Fax: (416) 585-6870

### Regional Operations Branch - Toronto

(416) 585-7296

FAX: (416) 585-7292

#### Eastern - Kingston

(613) 548-4304

Toll Free : 1-800-267-9438

FAX: (613) 548-6822

#### Southwestern - London

(519) 673-1611

Toll Free : 1-800-265-4736

FAX: (519) 661-1677

#### Northeastern - Sudbury

(705) 564-0120

Toll Free : 1-800-461-1193

FAX: (705) 564-6863

#### Northwestern - Thunder Bay

(807) 475-1651

Toll Free : 1-800-465-5027

FAX: (807) 475-1196

#### Central - Toronto

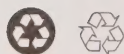
(416) 327-0017

Toll Free : 1-800-668-0230

FAX: (416) 327-0980

Copies of the Guides may also be obtained from  
**Publications Ontario** (416) 326-5300 or  
1-800-668-9938

Visit the Ministry's Internet site at:  
[www.mmah.gov.on.ca](http://www.mmah.gov.on.ca)



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